

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE: : CASE NO. 10-93904-BHL-11  
EASTERN LIVESTOCK CO., LLC, : (Judge Basil H. Lorch III)  
Debtor. :  
: **MOTION FOR EXPEDITED**  
: **HEARING**  
:

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The First Bank and Trust Company ("First Bank"), a creditor in the above-captioned proceeding, by counsel, pursuant to S.D. Ind. L.R. B-9006-1, respectfully moves the Court to enter an Order setting an expedited hearing, simply advancing the hearing date from the next scheduled Omnibus date, on various filings in this case, and in support of its request shows the following:

1. First Bank respectfully requests an Expedited Hearing on the following motions and other filings:
  - (a) Report of Trustee, James A. Knauer Regarding Investigation and Analysis of Potential Claims Against Fifth Third Bank ("the Report") [Dkt. No. 1166];
  - (b) Superior's Preliminary Objection to the Report [Dkt. No. 1177];
  - (c) Superior Motion to Strike Trustee's Report on Claims [Dkt. No. 1196];
  - (d) Objection of First Bank and Trust Company ("First Bank") to Trustee's Report [Dkt. No. 1201];
  - (e) First Bank's Motion to Strike Trustee's Report on Claims [Dkt. No. 1204];
  - (f) Superior's Supplemental Objection to the Report [Dkt. No. 1206]; and

- (g) All filings and other motions that object to, or request relief with respect to, the Report, which are filed within three (3) business days prior to the date of the expedited hearing.

(collectively, the "Report Filings").

2. Time is of the essence with respect to a ruling on the issues raised in the Report Filings, which is why an expedited hearing in advance of the August 20, 2012 omnibus hearing is necessary. Under § 546(a)(1), avoidance actions under §§ 544, 545, 547, 548 or 553 must be filed within two years following the entry of an Order for Relief, which deadline is December 28, 2012. As set forth in several of the Report Filings, First Bank and other creditors submit that the Trustee and his Special Counsel have not complied with the Court's direction because (1) the Report was not filed by disinterested and independent counsel, Hoover Hull; (2) the Report provided insufficient factual detail or legal analysis to permit creditors to reach their own conclusions regarding the viability of the Estate's claims against Fifth Third; and (3) the purpose of the Report, contrary to the Court's directive and the understanding of creditors in this case, may be an improper solicitation of approval of a soon-to-be filed plan of reorganization that includes a settlement of claims against Fifth Third.

3. Unfortunately, creditors may be compelled to "accept" the Trustee's yet undisclosed settlement with Fifth Third simply because they may not have the time, information, or resources to do anything else. The problems facing the Estate because of the Trustee's failure to independently investigate and disclose facts for well over a year are set forth in the various Objections and Motions that are part of the Report Filings. But, the creditors should not be required to wait for two additional months to address these important issues at the next scheduled Omnibus hearings.

4. Regardless of the Court's ruling on the Report Filings, First Bank and the creditors of the Estate need immediate judicial review. If the Court agrees the deficiencies in the Report need to be remedied, then any delay relating to implementing such remedial measures could be reduced by addressing promptly the Report Filings. If the Court disagrees as to whether deficiencies in the Report need to be remedied, then the creditors need sufficient time to request alternative relief, such as authority to bring derivative claims, which will require briefing and oral argument before the Court within a fairly limited window of time.

5. Counsel for First Bank has, prior to filing this motion, communicated with counsel for several of the creditors interested in the Report Filings and determined that July 9, 16 and 19, 2012 are dates on which counsel for these creditors can be available for a live hearing at the Court's convenience. Counsel for First Bank attempted to communicate with the Trustee's counsel relating to those dates. Mr. Toner responded that he, personally, may have a potential conflict during the week of July 16. Counsel for First Bank, however, believes that the three week period between this motion and potential hearing dates should be ample time to respond to the motions and objections and accommodate a hearing on the limited issues requested.

**WHEREFORE**, The First Bank and Trust Company respectfully requests the Court enter an Order setting the Report Filings for an expedited hearing, and grant it all other just and proper relief.

Respectfully submitted,

/s/ Daniel J. Donnellon

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**CERTIFICATE OF SERVICE**

I certify that on the 22nd day of June, 2012, I electronically filed the foregoing Motion for Expedited Hearing with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to CM/ECF participants:

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